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AGREEMENT
BETWEEN
THE GOVERNMENT THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA
FOR COOPERATION IN
THE CLOUDSAT MISSION

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**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
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FOR COOPERATION IN
THE CLOUDSAT MISSION**

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA and THE
GOVERNMENT OF CANADA (hereinafter referred to as the "Parties"),**

DESIRING to finalize the cooperation developed between the National Aeronautics and Space Administration of the Government of the United States of America (hereinafter referred to as "NASA") and the Canadian Space Agency (hereinafter referred to as "CSA") in the CloudSat interim agreement dated October 24, 2000, as extended,

ACKNOWLEDGING the continuing relevance of the exchange of letters between NASA and CSA of April 6 and May 7, 2001, concerning their cooperation on the CloudSat Mission,

RECOGNIZING the need for a mission to collect data to better understand the role of clouds and aerosols in the climate, thus improving the ability to predict long-term climate change and seasonal to interannual climate variability, and

RECALLING that the CloudSat Mission, including CSA participation, was selected for development in April 1999 by NASA's Earth Science Enterprise through its second Earth System Science Pathfinder (hereinafter referred to as "ESSP-2") Announcement of Opportunity (hereinafter referred to as "AO") AO-98-OES-01,

HAVE AGREED as follows:

**ARTICLE I
Purpose**

This Agreement sets forth the obligations, terms, and conditions under which the Parties shall cooperate in the CloudSat Mission.

**ARTICLE II
Implementing Agency**

1. The government of Canada designates CSA as its implementing Agency for the purposes of this Agreement.
2. The Government of the United States of America designates NASA as its implementing Agency for the purposes of this Agreement.

ARTICLE III

Mission Description and Participation

1. The primary objective of the CloudSat Mission is to provide the breakthrough information needed to improve climate and numerical weather prediction models by validating cloud predictions in these models. The new information that CloudSat will provide is the vertical distribution of cloud systems, including profiles of ice and water contents. This information cannot be obtained from existing or currently approved spaceborne missions. CloudSat will also provide significantly improved profiles of radiative heating of the atmosphere by clouds. The importance of this heating to the only partially understood cloud-climate feedback problem is well documented.
2. The secondary objective of the Mission is to provide a set of near-simultaneous, coincident data which could be used to validate and improve data retrievals from other satellites, including NASA's Earth Observing System (hereinafter referred to as "EOS") Aqua mission.
3. The payload on the CloudSat satellite will consist of a 94-Ghz Cloud Profiling Radar (hereinafter referred to as "CPR").
4. The CloudSat satellite is planned to operate for a nominal period of two years. The satellite will be operated by the U.S. Air Force (hereinafter referred to as "USAF") for NASA. USAF will command and control the payload and process the S-band satellite telemetry and raw science data to Level 0 products. USAF will deliver these Level 0 products to the NASA science data processing center at Colorado State University. Extended satellite operations are possible should the Parties decide to support such an extension of the CloudSat Mission prior to the end of the nominal period and should there remain any satellite expendables. There may be satellite expendables remaining at the end of the nominal period of two years and after a reserve for end-of-life disposal has been established. After the end of Mission, the satellite will be passivated and disposed of in accordance with appropriate orbital debris mitigation guidelines.
5. Payload science data and science data products will be made available to the CloudSat science team and the broader international user community according to Article XVI below.

ARTICLE IV

Obligations of the Government of Canada

To implement this cooperative project, the Government of Canada, through its Implementing Agency, CSA, in accordance with the detailed provisions of a CloudSat Joint Implementation Plan (hereinafter referred to as "JIP") shall use reasonable efforts to:

1. Designate a Project Manager (hereinafter referred to as the "Canadian-designated Project Manager") to work with the Project Manager designated under Article V of this Agreement, in the implementation of this Agreement, including the development of the JIP;
2. Develop and deliver to NASA two 94 GHz Extended Interaction Klystron (hereinafter referred to as "EIK") flight units plus one flight spare for the CloudSat CPR, consistent with CloudSat project requirements, as documented in the JIP and associated specifications;

3. Develop and deliver to NASA the engineering unit and flight unit for the receiver portion of the Radio-Frequency Electronics Subsystem (hereinafter referred to as "RFES"), consistent with the CloudSat requirements, as documented in the JIP and associated specifications;
4. Provide to NASA performance specifications for the Low Noise Amplifier (hereinafter referred to as "LNA") component of the RFES receiver that will be provided to CSA by NASA (pursuant to NASA's April 6, 2001 letter to CSA);
5. Provide to NASA flight-quality spare components and subassemblies to support any needed repairs of Canadian-provided RFES components, consistent with the CloudSat spares;
6. Fund the development of science data product software modules and integration and testing of the modules at the CloudSat science data processing center in the U.S.;
7. Prepare for, conduct, and/or support CloudSat reviews, as appropriate, for the Mission, the CPR, the EIK, the RFES, and the RFES receiver;
8. Provide adequate resources and support to Canadian members of the science team;
9. Provide technical assistance for the CPR instrument integration and testing as agreed in the JIP;
10. Support the flight system integration and test, launch, and on-orbit operations of the CPR; and
11. Inform the Government of the United States of America promptly of any technical or programmatic problems that may affect overall CloudSat Mission schedules, cost or performance.

ARTICLE V Obligations of the Government of the United States of America

To implement this cooperative project, the Government of the United States of America, through its Implementing Agency, NASA, in accordance with the detailed provisions of the CloudSat JIP, shall use reasonable efforts to:

1. Designate a Project Manager (hereinafter referred to as the "US-designated Project Manager") to work with the Canadian-designated Project Manager in the implementation of this Agreement, including development of the JIP;
2. Provide the CloudSat spacecraft and overall project management for the CloudSat Mission;
3. Develop all scientific instruments for the CloudSat Mission except for the receiver portion of the RFES and the EIK portion of the CPR, as described in paragraphs 2 and 3 of Article IV of this Agreement;
4. Provide interface requirements and recommendations to CSA related to the design and performance of the EIK and the RFES receiver in so far as the design affects the performance of the interface;

5. Deliver to CSA the LNA component of the RFES receiver;
6. Fund the development of science data product software modules, and integration and testing of the modules at the U.S. science data processing center, all as outlined in NASA's April 6, 2001, letter to CSA;
7. Process, distribute, and archive CloudSat Standard Data Products;
8. Provide overall system engineering and develop overall system specifications and Interface Control Documents (hereinafter referred to as "ICDs") that will define all CloudSat interfaces;
9. Develop and implement a review process for CloudSat;
10. Define requirements for the CPR instrument-level testing, plan and conduct instrument system-level tests, evaluate test results, and certify flight readiness;
11. Assemble, test, and integrate the CPR with the CloudSat spacecraft at NASA's Jet Propulsion Laboratory (hereinafter referred to as "JPL");
12. Provide launch services and manage the launch campaign, including launch vehicle integration and prelaunch testing;
13. Perform mission operations and overall mission management;
14. Perform on-orbit evaluation and calibration activities after launch, as required and mutually agreed, to verify the performance achieved by the radar;
15. Receive, process, distribute, and archive satellite telemetry and payload science data products; and
16. Inform the Government of Canada promptly of any technical or programmatic problems that may affect mission schedules, cost, or performance.

ARTICLE VI Project and Program Management

1. The CloudSat Principal Investigator (hereinafter referred to as the "CloudSat PI"), who has been selected by NASA, shall be responsible for overall mission success, as well as the overall business, financial, technical and scientific management of the CloudSat Mission. The Government of the United States of America shall ensure that the CloudSat PI has the decision/delegation authority necessary to carry out these functions.
2. In carrying out the functions described in paragraph 1 of this Article, the CloudSat PI has selected NASA's JPL to manage the project. JPL has been delegated authority to implement the Mission including performing project planning and management, system engineering, payload instrument development, outreach, and mission assurance.

3. The Parties shall establish a CloudSat Technical Advisory Board (hereinafter referred to as "TAB") to ensure that the products delivered by the Government of Canada to NASA meet the technical and schedule requirements of the Mission. The TAB shall be composed of two members designated by the Government of the United States and two members designated by the Government of Canada. The TAB shall be chaired by one of the members designated by the Government of Canada. The membership shall include a technical representative from each Party, experienced in the area of EIK, RFES receiver, and 94GHz radar technology, and a management representative from each Party.

4. The Parties may provide additional personnel to the TAB, as agreed between them, to attend and provide technical or managerial advice, as necessary.

5. Subject to the provisions of Article XIV, each Party may participate in technical exchanges with the other Party's contractors, when appropriate, to ensure that CloudSat project requirements are met. To facilitate this participation, each Party shall, to the extent possible, inform and invite the other Party in advance of planned technical exchanges.

ARTICLE VII

Science Team

1. The Parties shall request that the CloudSat PI form an international science team, including Co-Investigators (hereinafter referred to as "Co-I's"), who will support the CloudSat PI in the science management of the CloudSat Mission. Canadian Co-I's on the science team will work directly with the CloudSat PI or through the Deputy PI. Canadian Co-I's identified in the September 1998 CloudSat proposal shall be science team members. The Government of Canada may propose additional science team members. New science team members proposed by the Government of Canada shall require acceptance by the CloudSat PI and final approval by the Government of the United States of America.

2. The CloudSat science team shall be the principal scientific forum for instrument performance assessment, algorithm development, validation of science data, and initial science data evaluation studies. Notwithstanding the preceding, the Parties may, by mutual agreement, establish guest investigator programs for validation and science data evaluation studies.

3. The CloudSat PI, supported by the Co-I's, shall be responsible for the development of the scientific aspects of CloudSat and for ensuring that the science data products are effectively used and that the results are expeditiously produced and made available, in accordance with Article XVI below. The CloudSat PI shall also be responsible for coordinating science requirements, plans and field experiments with other organizations.

ARTICLE VIII **Joint Implementation Plan**

1. The US-designated Project Manager shall prepare, in close coordination with the Canadian-designated Project Manager, a JIP, which shall then be subject to approval by the Parties. In case of conflict between the JIP and this Agreement, the Agreement shall prevail. The JIP shall detail how this cooperative project will be carried out, including: mission planning; provision of the payload instruments and ground system; description of interfaces; conduct of mission operations and data delivery; overall delivery schedule and schedule of significant events; a plan for formal and informal reviews; a description of technical data to be shared; process and configuration control; delivery timelines for payload science data and science data products, and other such information as specified in this Agreement and as the Parties deem necessary for project control.
2. Meetings and reviews required to carry out the responsibilities set forth in this Agreement shall also be included in the JIP, and shall be held periodically in the United States, Canada and at sites as mutually agreed. The meetings and reviews shall be chaired by either Party, as mutually agreed.
3. The Parties shall use reasonable efforts to carry out their respective obligations in accordance with the schedules to be defined in the JIP, and to avoid changes that will have a negative effect on the other Party with regard to scientific return, implementation approach, cost, and/or schedule. Where changes having a negative effect cannot be avoided, the Parties shall work to minimize these negative effects. To the extent that changes made by either Party to the JIP cause schedule, cost or other problems that go beyond either Party's program constraints, the Parties shall work together to identify offsets that may be required. To the extent that offsets are identified, the appropriate Project Manager shall submit the proposals to the CloudSat PI and the NASA Associate Administrator for the Science Mission Directorate for NASA approval.

ARTICLE IX **Mission Reviews, Integration, and Flight Readiness**

To implement the CloudSat Mission, there will be a series of mission reviews to confirm mission status and evaluate the readiness of the flight and ground segments to proceed to final launch preparation. These mission reviews shall be chaired by a person appointed by the Government of the United States and attended by the Parties. Both Parties shall furnish engineering and programmatic data for these reviews based on their respective contributions. All mission review details shall be included in the JIP. The Government of the United States shall make final determination of the overall readiness to proceed with integration of the payload onto the spacecraft platform, integration of the satellite with the launch vehicle, and readiness for launch of the CloudSat satellite into its desired orbit. The Government of the United States, in consultation with the Government of Canada and other parties involved in the CloudSat Mission, shall make the final determination of the overall readiness for launch and on-orbit operations of the CloudSat Mission.

ARTICLE X

Exchange of Personnel

To facilitate coordination related to the CloudSat Mission, the Parties may support a limited exchange of personnel from each Party, at a time and under conditions as mutually agreed by the Parties pursuant to necessary administrative authorizations. In the event of such an exchange, the Party hosting the exchanged personnel shall provide necessary office space and administrative support at the host location, including additional support services as may be agreed by the Parties. Personnel being hosted shall comply with the safety and security requirements of the hosting Party. Salary and all other personnel expenses, living and travel expenses, shall be borne by the employing Party throughout the duration of the personnel exchange.

ARTICLE XI

Funding

Each Party shall bear the costs of discharging its respective obligations under this Agreement including travel and subsistence of each Party's personnel and transportation of its own equipment and associated documentation. The obligations of the Parties under this Agreement are subject to their respective funding procedures and the availability of appropriated funds, personnel, and other resources.

ARTICLE XII

Customs and Taxes

Each Party shall use reasonable efforts to arrange free customs clearance and waiver of applicable duties and taxes for equipment and related goods necessary for the implementation of this Agreement. Such arrangements shall be fully reciprocal. In the event that any customs fees and/or taxes of any kind are still levied on the equipment and related goods for implementation of this Agreement, after seeking to develop the necessary free customs clearance and waiver of applicable duties and taxes, such customs fees and/or taxes shall be borne by the Party of the country levying the fees and/or taxes.

ARTICLE XIII

Ownership of Elements and Equipment

For the purposes of this Agreement, each Party shall retain ownership of elements and equipment it furnishes to the other Party. Any equipment not launched into space shall be returned to the furnishing Party at such time as mutually agreed. Each Party shall transport its equipment to the designated delivery points, as specified in the JIP, and, where appropriate, from such delivery points, when the equipment is to be returned to the furnishing Party.

ARTICLE XIV

Transfer of Technical Data and Goods

The Parties shall transfer only those technical data (including software) and goods necessary to fulfill their respective responsibilities under this Agreement, in accordance with the following provisions:

1. The transfer of technical data for the purpose of discharging the Parties' obligations with regard to interface, integration, and safety shall normally be made without restriction, except as required by national laws and regulations relating to export control or the control of classified data. If design, manufacturing, and processing data, and associated software, which is proprietary but not export controlled, are necessary for interface, integration, or safety purposes, the transfer shall be made and the data and associated software shall be appropriately marked. All activities of the Parties pursuant to this Agreement shall be carried out in accordance with their national laws and regulations, including their export control laws and regulations and those pertaining to the control of classified information.
2. All transfers of proprietary technical data, and export-controlled goods and technology, including export-controlled technical data, are subject to the following provisions. In the event a Party finds it necessary to transfer export-controlled goods, export-controlled technical data or proprietary technical data for which protection is to be maintained, such goods shall be specifically identified and such technical data shall be marked with a notice to indicate that they shall be used and disclosed by the receiving Party only for the purposes of fulfilling the receiving Party's obligations under the programs implemented by this Agreement and that the identified goods and marked technical data shall not be disclosed or retransferred to any other entity without the prior written permission of the furnishing Party. The receiving Party shall abide by the terms of the notice, and protect any such identified goods and marked technical data from unauthorized use and disclosure. Prior to disclosure or retransfer of identified goods or marked technical data to any other entity, the receiving Party shall ensure that such entity shall be bound by the obligations contained in this paragraph.
3. All export-controlled goods and technology, including marked or unmarked export-controlled technical data, and marked proprietary data, which are transferred under this Agreement, shall be used by the receiving Party exclusively for the purposes of the programs implemented by this Agreement.
4. Nothing in this article shall be interpreted to imply the transfer of ownership of goods or data or of proprietary rights therein.

ARTICLE XV

Patents, Copyrights, and Invention Rights

1. Nothing in this Agreement shall be construed as granting or implying any rights to or interest in, any patents, copyrights or inventions of the Parties or their contractors or subcontractors created outside the scope of this Agreement.

2. Any patent, copyright, and invention rights resulting from activities undertaken in performance of this Agreement solely by either Party or either Party's contractors and/or subcontractors shall be owned by such Party or by its contractors and/or subcontractors. Allocation of ownership rights between such Party and its contractors and/or subcontractors shall be determined by such Party's laws, regulations, and applicable contractual obligations.
3. In the event that any copyrightable material or invention is jointly made by the Parties, their contractors, or subcontractors in the performance of this Agreement, the Parties shall consult and agree as to the responsibilities and costs of actions to be taken to establish and maintain protection (in any country) for such copyrightable material and invention, and on the terms and conditions of any license or other rights to be exchanged or granted by or between the Parties.

ARTICLE XVI

Science Data Policy

Access to CloudSat science data shall be as follows:

1. In all cases, prior to distribution to the general scientific community, the Parties shall provide timely, free of charge access to all CloudSat science data products to members of the science team for initial assessment of data quality and for validation purposes. Following initial validation, the CloudSat PI shall release the data products to the general scientific community, at no more than the cost of fulfilling the user request. To promote rapid access to the science data products, this release to the general scientific community may occur before full validation of the data products has taken place.
2. Science data products shall be made available to the public and the science community in general, in a Hierarchical Data Format (hereinafter referred to as "HDF")-standard data format after the appropriate science calibration and validation, at no more than the cost of fulfilling the user request. To promote rapid access to science data products, some preliminary science data products will be distributed after initial verification, but prior to full validation, and made available to all users at no more than the cost of fulfilling the user request.
3. All satellite telemetry, payload science data and science data products obtained from the CloudSat Mission shall be archived in appropriate data centers of the Government of the United States of America for at least 10 years after completion of the CloudSat Mission, unless otherwise agreed by the Parties.
4. To enhance scientific analysis of CloudSat data, coordinated AOs for use of the data for scientific analysis may be issued by the Parties.

ARTICLE XVII

Publication of Public Information and Results

1. Notwithstanding the provisions of Article XV, the Parties retain the right to release public information regarding their own activities under this Agreement. The Parties shall coordinate with each other in advance concerning public information activities that relate to the other Party's responsibilities or performance under this Agreement.
2. The Parties shall make the analyzed results obtained from the CloudSat Mission available to the general scientific community through publication in appropriate journals or presentations at scientific conferences as soon as possible and in a manner consistent with good scientific practices. In the event that such reports or publications are copyrighted, the Parties shall have a royalty free right under the copyright to reproduce, distribute, and use such copyrighted work for their own purposes.
3. In the event a Party or its investigators publish results primarily obtained from CloudSat science data, or other information regarding results obtained from the implementation of this Agreement, the Party or its investigators involved with the publication shall make this information available to the other Party. Each Party shall, at minimum, have a royalty free right to reproduce, use, and distribute the publication for its own purposes.
4. In no event shall a Party include in a publication export-controlled or proprietary technical data or information on technical goods furnished by the other Party, in accordance with Article XIV of this Agreement, or information disclosing the other Party's inventions before patent application, without the other Party's prior written consent.

ARTICLE XVIII

Liability

1. The purpose of this Article is to establish a cross-waiver of liability between the Parties and their related entities in the interest of encouraging participation in the exploration, exploitation, and use of outer space. This cross-waiver of liability shall be broadly construed to achieve this objective.
2. As used in this cross-waiver,
 - (a) the term "Related Entity" means:
 - (i) a contractor or subcontractor of a Party at any tier;
 - (ii) a user or customer of a Party at any tier; or
 - (iii) a contractor or subcontractor of a user or customer of a Party at any tier. "Contractors" and "subcontractors" include suppliers of any kind.
 - (b) the term "damage" means:
 - (i) bodily injury to, or other impairment of health of, or death of, any person;

- (ii) damage to, loss of, or loss of use of any property;
 - (iii) loss of revenue or profits; or
 - (iv) other direct, indirect, or consequential damage.
- (c) The term "payload" means any property to be flown or used on or in the launch vehicle.
- (d) The term "launch vehicle" means an object or any part thereof intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.
- (e) The term "Protected Space Operations" means all launch vehicle and payload activities on Earth, in outer space, or in transit between Earth and outer space done in implementation of this Agreement. Protected Space Operations begin on the date of entry into force of this Agreement and end when all activities done in implementation of this Agreement are completed. They include, but are not limited to:
- (i) research, design, development, test, manufacture, assembly, integration, operation, use, or end-of-life of launch or transfer vehicles, payloads, or instruments, as well as related support equipment and facilities and services;
 - (ii) all activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services.
"Protected Space Operations" exclude activities on Earth which are conducted on return from space to develop further a payload's product or process for use other than for launch vehicle-related activities necessary to complete implementation of this Agreement.
3. (a) Each Party shall waive all claims against any of the entities or persons listed in sub-paragraghs 3(a)(i) through (a)(iii) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against:
- (i) the other Party;
 - (ii) a related entity of the other Party;
 - (iii) the employees of any of the entities identified in sub-paragraghs (i) and (ii) above.

(b) In addition, each Party shall extend the cross-waiver of liability as set forth in paragraph 3(a) of this section to its own related entities by requiring them, by contract or otherwise, to agree to waive all claims against the entities or persons identified in sub-paragraphs 3(a)(i) through 3(a)(iii) of this section.

(c) This cross-waiver of liability applies to claims that may arise from the Convention on International Liability for Damage Caused by Space Objects March 29, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(d) Notwithstanding the other provisions of this Article, this cross-waiver of liability shall not be applicable to the following:

(i) claims between a Party and its own related entity or between its own related entities;

(ii) claims made by a natural person, his/her estate, survivors, or subrogees for bodily injury, other impairment of health or death of such natural person, except where the subrogee is a Party to this Agreement or has otherwise agreed to be bound by the promises of this cross-waiver;

(iii) claims for damage caused by willful misconduct;

(iv) intellectual property claims;

(v) claims for damages resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to subparagraph 3(b) above

(vi) claims by or against a Party arising out of or relating to the other Party's failure to meet its contractual obligations set forth in this Agreement.

(e) Nothing in this Article shall be construed to create the basis for a claim or suit where none would otherwise exist.

ARTICLE XIX Settlement of Disputes

Parties shall endeavour to settle disputes relating to the interpretation or implementation of this Agreement through consultations.

ARTICLE XX Registration of Space Objects

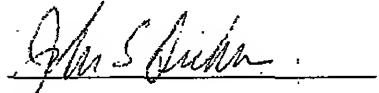
The Government of the United States shall register the CloudSat satellite as a space object in accordance with the Convention on Registration of Objects Launched into Outer Space of January 14, 1975.

ARTICLE XXI
Entry Into Force, Duration, Amendment and Termination

1. This Agreement shall enter into force upon signature. It shall remain in force for five years after the CloudSat satellite has been launched or until December 31, 2010, whichever is earlier. Notwithstanding the preceding, the Parties may extend this Agreement for an additional period of time by written agreement, in accordance with each Party's domestic procedures.
2. This Agreement may be amended by written agreement of the Parties, in accordance with each Party's domestic procedures.
3. At any time, either Party may terminate this Agreement upon at least 12 months written notice of the intent to terminate to the other Party. Termination by either Party shall not affect that Party's continuing obligations under this Agreement with regard to liability, intellectual property rights, and exchange of technical data and goods.

IN WITNESS WHEREOF, the undersigned duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Montreal, this 14th day of September 2005, in the English and French languages, each version being equally authentic.



FOR THE GOVERNMENT
OF THE UNITED STATES OF AMERICA



FOR THE GOVERNMENT
OF CANADA